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ensure that all comments are considered.

Dated: August 21, 1992.

Douglas B. Comer,
Acting Assistant Secretary and Acting
Commissioner of Patents and Trademarks.
[FR Doc. 92-20466 Filed 8-25-92; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WY2-143-5111; FRL-4199-2]

Approval and Promulgation of State Implementation Plans; Wyoming; Revision to Section 3 Particulates

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, EPA is proposing to approve, with conditions, a revision to section 3 Particulates of the Wyoming Air Quality Standards and Regulations (WAQSR) of the Wyoming State Implementation Plan (SIP). The revision to Section 3, which adds subsection (d), defines "ambient air" for surface coal mines located in Wyoming's Powder River Basin (PRB). This definition of ambient air is applicable to lands in the PRB that the State determines to be necessary to conduct surface coal mining operations, thereby making the air over these lands "non-ambient" with respect to emissions from the coal mining operation being conducted on a particular parcel of land, and, to that extent, not subject to the PM-10 National Ambient Air Quality Standards (NAAQS) or the Prevention of Significant Deterioration (PSD) particulate increments.

The Administrator of the Wyoming Air Quality Division originally submitted a SIP revision containing the revised Section 3 Particulates on September 6, 1988. Additional SIP materials have been submitted in the interim, and on September 4, 1990, EPA notified the State that SIP submittal was considered to be complete.

EPA's proposed approval of the revision begins the process of updating the Wyoming SIP and making the adopted State regulation federally enforceable.

DATES: Comments must be received on or before September 25, 1992.

ADDRESSES: Written comments on this action should be addressed to: Douglas M. Skie, Chief, Air Programs Branch, Environmental Protection Agency,

Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202-2405.

Copies of the applicable documentation are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday, at the following locations:

Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500, Denver, Colorado 80202-2405.
Wyoming Department of Environmental Quality, Air Quality Division, Herschler Building, 4th Floor, 122 West 25th Street, Cheyenne, Wyoming 82002.

FOR FURTHER INFORMATION CONTACT:

Michael Silverstein, Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202-2405, (303) 293-1769, (FTS) 330-1769.

SUPPLEMENTARY INFORMATION: The Wyoming ambient air definition has been under review by EPA (which includes extensive discussions with the State and numerous State submittals) for a significant period of time. This definition has implications for SIP/regulation implementation and stationary source enforcement efforts in the PRB. As outlined below, the first section generally discusses the issues and EPA's conclusions, and detailed information is provided in the second section.

A. Overview

B. Background

1. State Definition Development.
2. State-issued Permits to PRB Surface Coal Mines.
3. Wyoming's Initial SIP Revision Submittals. A. The September 6, 1988, Submittal, B. The December 22, 1988, Submittal, C. The March 14, 1989, Submittal.
4. Ambient Air Dispersion Modeling Requirements and the Adequacy of EPA's Modeling Tools.
5. Demonstrating Short-term Attainment of the PM-10 Standards Utilizing Monitoring.
6. Wyoming's March 1990 SIP Submittals.
7. Impacts of the Clean Air Act Amendments of 1990.

C. EPA Action

A. Overview

On April 30, 1987, the State of Wyoming adopted a definition for ambient air specific to the PRB. Prior to adoption of this definition, the State had not defined ambient air by regulation but had been applying the concept to mean that portion of the atmosphere which is external to buildings, regardless of land ownership or control and whether or not public access was excluded. As applied to surface coal mining operations, all air resources outside of buildings were considered to be ambient.

Wyoming's application of the ambient air concept resulted in permit disputes involving the State and coal companies. Because dispersion modeling indicated exceedances of EPA's former primary and secondary NAAQS for total suspended particulates (TSP), the State determined that some coal mines might not be allowed to operate according to the existing mine plans and the associated desired production rates. The State chose a definitional change as a solution, seeking to create areas which would not be subject to the NAAQS but which would satisfy EPA requirements.

On April 30, 1987, Wyoming adopted the following definition:

(d) Ambient air, for the area bounded by Townships 40 through 52 North, and Ranges 69 through 73 West, inclusive, of the Sixth Principal Meridian, Campbell and Converse Counties, in the Powder River Coal Basin, is defined as that portion of the atmosphere, external to buildings, to which the public has access. For surface mining operations, the application of this definition will be limited to only those lands that are necessary to conduct mining operations as determined by the Administrator of the Wyoming Air Quality Division.

Following adoption, the State began to issue permits to PRB surface mines, applying the newly adopted definition of ambient air in these permit actions. The permits allowed maximum coal production for any given year in the life of each mine. In applying the new definition of ambient air, Wyoming treated the 30-year mine plan areas as " * * * lands that are necessary to conduct mining operations * * *" and exempt from ambient air with respect to each mine's own emissions. The State also required that public access be prevented to these lands. By these means, previously modeled exceedances were avoided since each mine's emissions could be subtracted from the total emissions impacting that mine's ambient air quality.

Upon receipt of these permits, EPA observed that: (1) Wyoming was implementing the new definition of ambient air before submitting the regulation revision to EPA for approval, (2) there was the possibility of TSP PSD increment and NAAQS violations, and (3) there was need for clarification regarding the enforceability of limits to public access.

On September 6, 1988, Wyoming submitted to EPA, as a SIP revision, the definition of "ambient air." EPA concluded that the adopted definition is acceptable. However, EPA had concerns with the dispersion modeling analysis for selected "worst case years" in the PRB, the protection of PSD increments,

and the limits on public access. First, the model utilized by the State in the modeling analysis had not been approved for use by EPA and was determined to be non-guideline. Therefore, the submitted modeling results for the annual TSP NAAQS might not be valid or reliable. Also, Wyoming did not include in the submittal modeling information for short-term (24-hour) TSP impacts on ambient air quality. Second, there was no indication in the submittal that the State tracks TSP increment consumption in the PRB. Thus, an adequate demonstration of protection of the TSP increments was not made. Third, EPA notes that the permits issued under the adopted regulation require that public access will be limited to the lands defined as necessary to conduct mining operations. Yet, neither these permits nor the SIP submittal contain language concerning how public access will be limited. (This is necessary since limitation on public access is essential to the concept of ambient/non-ambient air.)

EPA notified the State that the submittal was not complete and that Wyoming must commit to re-model the PRB for the next 30-year period. Wyoming must utilize an EPA approved guideline model to verify compliance with the PSD increments and NAAQS for particulates and include in all permits explicit language specifying the measures for prevention of public access. Wyoming committed to accomplish these measures, although opposition to utilizing EPA's approved modeling tools applicable to western surface coal mining operations was expressed.

After consideration of the State's position that EPA's approved modeling tools (guideline models and approved emission factors) did not accurately predict the impacts of emissions from surface coal mining operations on ambient air quality, EPA revised the modeling requirements as follows: (1) A short-term modeling study utilizing EPA-approved modeling tools must be conducted for the particulate NAAQS and PSD increments for the next three-year period; (2) the State would have the opportunity to develop (for EPA approval) modeling tools which could more accurately predict the impacts from surface coal mining operations in the PRB; and (3) within three years, Wyoming would conduct a 30-year "life of the mine" study for the applicable ambient air quality standards in the PRB utilizing EPA-approved models and emission factors. If the 30-year study

demonstrated attainment, final action would be taken on the SIP.

While committing to accomplish the above, the State and the coal mining industry expressed dissatisfaction with EPA's requirement to utilize the existing approved modeling tools for the three-year modeling study. The two parties requested that EPA make a determination that the available modeling tools were not adequate and that an exemption be granted to Wyoming delaying the modeling requirements until adequate modeling tools exist. The State proposed that the three-year modeling study requirement be eliminated since there was no "on the ground" problem, as demonstrated by existing ambient air monitoring. EPA committed to consider the request to eliminate the three-year modeling requirement if it could be demonstrated, through monitoring, that the NAAQS were being protected.

On December 15, 1989, EPA concluded that processing the "ambient air" SIP revision could proceed without a formal modeling demonstration. While EPA did not share the State's and coal companies' belief that the EPA guideline model overpredicted the impacts of emissions from the PRB's surface coal mining operations, EPA acknowledged that the differences of opinion on the suitability and performance of the approved modeling tools were great enough to warrant a revision to the PRB attainment demonstration. For such a change to occur, the State had to commit to the following: (1) Demonstrate that the particulate NAAQS have been protected in the recent past—if the data show no violations, EPA will proceed with a proposed approval of the "ambient air" SIP action; if the data show violations, remedial action must be initiated; (2) submit a schedule to develop adequate modeling tools; (3) develop and implement an adequate monitoring network to adequately assess the ambient air quality around each mine during the next three-year period, with a commitment by the State to initiate expeditious remedial action if an exceedance of the NAAQS is detected by the monitoring network; and (4) submit a schedule to perform the 30-year modeling study utilizing EPA-approved modeling tools and to initiate expeditious remedial action if the modeling predicts exceedances of the applicable ambient air quality standards. On March 28 and March 29, 1990, Wyoming submitted information which would satisfy these requirements. (One revision to these commitments is the result of the Clean Air Act Amendments of 1990, which requires

EPA, not the State, to develop adequate modeling tools.)

EPA has determined that the submitted ambient air monitoring data demonstrate past attainment of the particulate NAAQS in the PRB and that the "ambient air" SIP submittal was administratively and technically complete. EPA is satisfied that the applicable ambient air quality standards have been and will continue to be protected in the PRB and, thus, is proposing to approve, with conditions, the "ambient air" SIP revision. Unless EPA receives comments that demonstrate the inappropriateness of this approach, EPA will publish an approval, with conditions, in the *Federal Register*. If the State fails to achieve the conditions listed above, EPA will consider a SIP Call or other regulatory process to ensure attainment in the PRB. The basis for this proposal is that violations of the PM-10 standards will be mitigated in the interim period and that dispersion modeling to demonstrate long-term attainment will be performed following issuance of modeling procedures by EPA.

B. Background

1. State Definition Development

On April 30, 1987, the Wyoming Environmental Quality Council (EQC) adopted a definition for "ambient air" specific to approximately 2,340 square miles of Campbell and Converse Counties in northeast Wyoming, commonly referred to as the PRB. Eighteen surface coal mines are located in this region. This revision to Section 3 Particulates of the WAQSR became effective on June 5, 1987.

Prior to adoption of this revision, the NAQSR contained no definition of "ambient air." However, since the inception of its air program in the early 1970's, the State had been applying the term to mean that portion of the atmosphere which is external to buildings, regardless of land ownership or control and whether or not public access was excluded. As applied to surface coal mining operations, all air resources outside of buildings were considered to be ambient. This was a more stringent application than that of the EPA definition (see 40 CFR 50.1(e)). Wyoming's application of the ambient air concept resulted in permit disputes involving the State and coal companies. Wyoming proceeded to conduct dispersion modeling to investigate the resulting impacts of maximum production at surface coal mines in the PRB, measuring the cumulative impacts of each mine's emissions. The modeling

for certain "worst case" years predicted ambient concentrations as high as 85 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) of TSP within certain mine plan boundaries to which the public potentially had access. The modeling thus indicated exceedances of the EPA approved Wyoming Ambient Air Quality Standard (WAAQS) for TSP, which was $60 \mu\text{g}/\text{m}^3$ on an annual basis. The modeled concentrations also exceed EPA's former primary and secondary NAAQS for TSP, which, on an annual basis, were $75 \mu\text{g}/\text{m}^3$ and $60 \mu\text{g}/\text{m}^3$, respectively.

As a consequence of the modeling, the State determined that some coal mines might not be allowed to operate according to the existing mine plans and the associated desired production rates. The State faced possible extensive litigation to sort out which mines had "grandfathered" rights to continue production, in the event of allowed increases in production at other mines. The State chose a definitional change as a solution, seeking to create areas which would not be subject to the WAAQS or NAAQS.

On March 16, 1987, EPA received a notice of public hearing from the State of Wyoming which contained a draft revision to Section 3 Particulates of the WAQSR. EPA responded to the State on April 23, 1987, stating:

(1) The definition of "ambient air" proposed in section 3(d) of the WAQSR, as it now reads, is overly broad and is not consistent with EPA's definition of ambient air. EPA noted that by including contiguous properties with common boundaries under control of more than one company, the proposed definition would incorrectly broaden the definition of ambient air since employees at one company's mine are included in the term "general public" with respect to any other mine.

(2) Public access must be effectively excluded, for example, by "fencing around the outer perimeter" and by assuring that the public does not have a right of access.

(3) The definition should be limited in effect to only those lands "necessary to conduct mining operations" in order to avoid the prohibition of unlawful dispersion techniques (see section 123(a)(2) of the Clean Air Act).

(4) PSD increments for particulate matter have been triggered in the PRB, and " * * * PAD TSP increments may be more constraining than the NAAQS."

(5) It would be acceptable for the State to adopt EPA's definition of ambient air in the PRB.

On April 29-30, 1987, the Wyoming EQC held a public hearing to consider the proposed regulation. After

discussion of EPA's April 23, 1987, comments, the State's analysis of the issue, and public statements, the Wyoming EQC voted to revise the proposed regulation as described in the summary above. This regulation was adopted by the Wyoming EQC into the WAQSR on April 30, 1987, and become effective on June 5, 1987.

Under the adopted definition, air emissions from each mine are to be modeled utilizing receptor locations both on and surrounding leased areas. For receptor locations located on leased areas, and assuming that public access is prevented, the emissions attributed to that mine will be subtracted from the total pollution. Only the emissions from neighboring mines will "count" in determining whether an exceedance occurs at that location.

2. State-Issued Permits to PRB Surface Coal Mines

On November 12, 1987, the State issued permits MD-75 through MD-78 which modified the coal mine plans for four PRB surface mines. The State also modified two permits, MD-64A and CT-450A2, which provided interpretation of existing permits for two area surface mines. Wyoming applied the newly adopted definition of "ambient air" in these six permit actions.

The permits allowed maximum coal production for any given year in the life of each mine. In applying the new definition of "ambient air," Wyoming treated the 30-year mine plan area for each of the six mines (extending from 7.9 up to 22.0 square miles) as exempt from ambient air with respect to that particular mine. The State also required that public access be prevented to these lands. By these means, previously modeled WAAQS exceedances were avoided since each mine's emissions could be subtracted from the total emissions impacting that mine's ambient air quality.

Upon receipt of these permits, which were submitted on November 30, 1987, EPA identified some potential issues regarding the permit actions, as follows:

(1) Lack of a SIP submittal (Wyoming was implementing the new definition of "ambient air" before submitting the regulation revision to EPA for approval);

(2) Anticipated PSD increment violations (as indicated by the State on an earlier occasion);

(3) Anticipated TSP WAAQS violations (as determined by the State through dispersion modeling);

(4) Violation of requirements for the fiscal year 1988 (FY88) State/EPA Agreement (SEA), which provided for EPA review and comment prior to issuing final permits; and

(5) Need for clarification and enforceability of limits to public access. These issues were documented in a January 26, 1988, EPA memorandum and discussed with the State during the FY88 SEA Staff Midyear review held in Cheyenne, Wyoming on February 3, 1988. Wyoming committed at that time to submit in the near future the definition of "ambient air" to EPA as a SIP revision and to address those issues listed above.

On August 24, 1988, the State issued Permit No. MD-91 which modified the coal mine plan for one surface coal mine, and on January 24, 1989, the State interpreted the lands necessary to conduct mining operations for Permit No. MD-60. These permit actions also took place prior to EPA approval of the regulation as part of the SIP.

Wyoming has interpreted "lands that are necessary to conduct mining operations" to be the land area equivalent to the "life of the mine," or approximately 30 years of expected coal mining at maximum production. In applying the new definition of ambient air, Wyoming has treated the 30-year mine plan area for each of the eight mines as exempt from ambient air with respect to that particular mine. By excluding each mine's emissions within its own mine plan area, the State was able to permit increased production at each mine up to the maximum possible in any one year, without showing exceedances of WAAQS or NAAQS. The State also required that public access be limited to these lands. By these means, the State has excluded the atmosphere above these lands from the State's particulate ambient air quality standards, and the modeled exceedances were avoided.

The eight permits issued by Wyoming under its new regulatory definition raised the following concerns:

(1) The permits include the condition that the coal companies will limit public access to the lands defined by the Administrator of the Wyoming Air Quality Division as necessary to conduct mining operations. EPA, in the April 23, 1987, letter to Wyoming, put the State on notice that EPA's definition of ambient air requires that public access be effectively excluded, by fence or other physical barrier. Yet, the coal mine permits do not contain language concerning how public access will be limited. In view of the amount of land involved, as well as the proximity of the mines to public highways and settlements, the permit condition as it stands is unenforceably vague. The permits should be required at least fencing and marking of lease boundaries

or excluded areas. The condition of restricting public access has been similarly interpreted in previous EPA SIP approvals (see 50 FR 7056, February 20, 1985).

(2) The permits do not specifically require adherence to the mine plans contained in the permit applications. Deviations from the mine plan could result in emission 'hot spots' if the working pits of adjacent mines come within close proximity. Because the dispersion modeling based on the current mine plans could be greatly affected if deviations occur, the State should require that the companies (a) adhere to mine plans, or (b) (if deviations are necessary) request to modify permits, update dispersion modeling, and update mine plans to mitigate the 'hot spots'.

(3) There are no enforceable permit conditions to restrict the area of stripped land within the 30-year lease boundaries, or to require fugitive dust control measures for stripped areas and topsoil and overburden stockpiles. This is not consistent with the State's modeling of fugitive emissions for these permit actions, which assumes that the company will limit the area of stripped land and implement dust control measures as represented in the permit application. However, if the company deviates from its mine plan, such that large areas are stripped of topsoil and some overburden in preparation for mining but are left idle for long periods of time, or if the company does not implement the dust control measures, then more fugitive emissions would result, possibly threatening or exceeding the ambient particulate standards and PSD increment.

PSD permits issued by EPA for PRB surface coal mines in the late 1970's typically incorporate enforceable permit conditions in the form of appendices and require adherence to mine plans. (At that time, surface coal mines were considered major sources and subject to PSD regulations.) These appendices include, among other requirements, dust control measures for topsoil stripping, topsoil and overburden stockpiles to prevent wind erosion from disturbed areas, as well as a limit on the average topsoil stripping advance. Such measures are not found in the State permits. Wyoming has contended that these activities, which are included in State permit applications, are an enforceable part of the final State permits, even if the permits do not specify these conditions or make specific reference to the permit application. In addition, the State would treat any deviation from a mine plan as

a permit violation, which would result in an appropriate enforcement action. It has been EPA's position, however, that such implied restrictions on activity are not federally enforceable.

EPA and the State reached an agreement regarding these issues on March 14, 1989, when Wyoming committed to include in all permits (both existing and future) the following explicit language specifying the measures for prevention of public access:

- (1) Fencing the entire permit boundary;
- (2) Placing security guards at mine entrances;
- (3) Posting "No Trespassing" signs at regular intervals along the fence; and
- (4) Patrolling boundaries.

Additionally, Wyoming committed to:

- (1) Include in all permits (both existing and future) explicit language identifying the terms and conditions of each permit, including a description of the mine plan, measures equivalent to best available work practices for dust control, and any other air pollution control activities; or
- (2) Incorporate by reference all commitments and descriptions set forth in the permit application, unless superseded by a specific condition of the permit.

Wyoming's adherence to these conditions is evident in permits MD-103, MD-104, MD-102, MD-108, MD-114, and MD-122, which were issued on June 2, 1989, June 2, 1989, June 7, 1989, August 7, 1989, December 6, 1989, and April 6, 1990, respectively.

3. Wyoming's Initial SIP Revision Submittals

A. The September 6, 1988, Submittal

On September 6, 1988, Wyoming submitted to EPA, as a SIP revision, revised Section 3 particulates of the WAQSR containing the definition of "ambient air." This submittal also contained Wyoming's analysis of permit applications and permits issued based on the subject regulation change, and ambient air modeling for selected "worst case years" in the PRB. EPA's analysis of these permits is discussed above.

Regarding the adopted definition (as described above), the operative part of the first sentence tracks the language in EPA's definition of ambient air (see 40 CFR 50.1(e)). EPA concludes that the State's regulatory definition is valid on its face, although the second sentence is not clear. (The confusing wording in the second sentence in the definition creates problems in comprehensibility. The State defines "ambient air" and then

states that the definition "will be limited to only those lands that are necessary to conduct mining operations * * *". The sentence makes it appear that the atmosphere over the mining operations is to be included in "ambient air," when just the opposite was intended.)

The subject definition, as written, appears to be acceptable. However, EPA had concerns with Wyoming's modeling analysis, the protection of PSD increments, and the limits on public access.

(1) *Wyoming's modeling analysis.* EPA noted that the model utilized by the State for surface coal mining applications was a non-guideline, rural version of the Climatological Dispersion Model (CDM), named CDM Wyoming (CDMW). CDMW has been employed principally in coal mining permit application reviews by the State and by many other non-State modelers since the late 1970's. No review or approval for use of this model had been obtained from EPA. Therefore, the submitted modeling results for the annual TSP WAAQS which were generated using CDMW may not be valid or reliable. Also, Wyoming did not include in the submittal modeling information or results for short-term (24-hour) TSP impacts on ambient air quality.

(2) *Protection of PSD increment.* There is no indication in this submittal that the State tracks increment consumption for the primary pollutant, TSP, in the PRB. The SIP submittal lacks any data about PSD increment consumption. EPA's regulations for PSD require that a SIP revision must "include a demonstration that it will not cause or contribute to a violation of the applicable increment(s)" (40 CFR 51.166(a)(2)). If a SIP is "substantially inadequate to prevent significant deterioration" or if "an applicable increment is being violated," the plan must be revised to correct the inadequacy or the violation (40 CFR 51.166(a)(3)). The submittal lacks both an annual and 24-hour TSP increment consumption analysis for the PRB and thus does not demonstrate adequate protection of the TSP increment.

Increment consumption includes not only emissions from PSD-permitted sources, but also emissions from all other sources in the area, including fugitive emissions. Fugitive emissions from minor sources such as the surface coal mines are increment-consuming and must be included (see 45 FR 52718, August 7, 1980, which states, "Any emissions not included in the baseline are counted against the increment").

The State has publicly acknowledged that the prospect of Class II TSP increment exceedances is a concern. In

an April 27, 1987, memorandum to the EQC, the Wyoming Air Quality Division acknowledged a concern about consumption of TSP increment, but advised the EQC to adopt the proposed ambient air definition anyway, stating, "The [Wyoming Air Quality] Division believes that the reclassification of this area to a Class III should be undertaken by the coal companies immediately." To EPA's knowledge, no effort has been made to reclassify the area.

As described in public hearing transcripts sent to EPA on November 18, 1988, the EQC voted on April 30, 1987, to initiate "at the greatest speed * * * an investigation into correcting the problem of allowing operations (at surface coal mines) so that we may result in de facto Class III air areas without having the opportunity to consider that in advance * * *". Such an investigation would not be necessary unless there were some expectation on the part of the EQC that Class II increment violations would occur. EPA has not received word of any State follow-up to the EQC's mandate.

The prospect of increment violations contradicts the EQC's "Statement of Principal Reasons for Adoption," which states, "Adoption of this regulation will not cause a significant change in the ambient air quality adjacent to coal company properties." The prospect of violations also suggests that the SIP revision is deficient per 40 CFR 51.166(a)(3). According to that section, "[i]f the Administrator determines that a plan is substantially inadequate to prevent significant deterioration or that an applicable increment is being violated, the plan shall be revised to correct the inadequacy or the violation."

(3) *Prevention of public access to the lands necessary to conduct mining operations.* EPA notes that the permits issued under the adopted regulation require that public access will be limited to the lands defined by the Administrator of the Wyoming Air Quality Division as necessary to conduct mining operations. Yet, as indicated above, neither these permits nor the September 6, 1988, submittal contain language concerning how public access will be limited.

Thus, on December 14, 1988, EPA notified the State that the submittal was not complete and requested that Wyoming submit the following additional information:

(1) A description of the CDMW model for review;

(2) Any additional ambient air modeling analysis applicable to the permitting of surface coal mines in the PRB;

(3) An analysis of PSD Class II TSP increment consumption in the PRB; and

(4) An analysis of the restriction of public access from "the lands necessary to conduct mining operations" as described in the State-issued permits.

B. The December 22, 1988, Submittal

On December 22, 1988, Wyoming submitted to EPA the information requested on December 14, 1988. This submittal consisted of the following:

(1) A description of CDMW;

(2) An analysis of PSD increment consumption in the PRB;

(3) An updated tabulation of the total permitted coal production in the PRB broken down into background and increment consuming rates; and

(4) A description of how the public is denied access to "the lands necessary to conduct mining operations."

EPA reviewed CDMW and found that CDMW is a Wyoming-modified version of the EPA-approved CDM dispersion model. Some of Wyoming's changes to CDM attempted to update the antiquated model to more modern capabilities. In fact, the newest guideline version of CDM, or CDM 2.0, includes some, but not all, of the Wyoming changes. However, EPA cannot consider CDMW and CDM to be comparable.

Wyoming also attempted to demonstrate that modeling results which utilized CDMW compare favorably with those utilizing the EPA-approved Industrial Source Complex Long Term (ISCLT) dispersion model. However, Wyoming's comparison between CDMW and ISCLT was not sufficient to satisfy the EPA requirements for use of a non-guideline model.

Thus, any dispersion modeling efforts (whether related to NAAQS or PSD increment consumption) utilizing the non-guideline CDMW model may not be valid or reliable. This determination is described in a February 20, 1989, EPA memorandum.

Wyoming's analysis of PSD Class II TSP annual increment consumption indicated two potential violators in the year 1994 in the South Gillette area. Thus, the proposed revision does not demonstrate " * * * that it will not cause or contribute to a violation of the applicable increment(s)," as required by 40 CFR 51.166(a)(2). (EPA notes that this increment analysis was performed using the non-guideline model CDMW, and that the State intends to re-model using an EPA-approved guideline model.)

Additionally, the increment analysis did not contain a review of 24-hour PSD Class II increment consumption.

Without such an analysis, the proposed revision again lacks a "demonstration that it will not cause or contribute to a violation of the applicable

increment(s)," as required by 40 CFR 51.166(a)(2). All sources, both point and fugitive, must be modeled for increment consumption once baseline has been triggered (see 45 FR 52718, August 7, 1980). Therefore, Wyoming's PSD Class II TSP increment analysis is inadequate. This determination is also described in the February 20, 1989, EPA memorandum.

Finally, Wyoming indicated in the submittal that the minimum requirements to restrict public access will include fencing the entire permit boundary, placing security guards at mine entrances, posting "No Trespassing" signs at regular intervals along the fence, and patrolling boundaries. As stated in a January 18, 1989, EPA memorandum, these measures seem to comport with national guidance on "ambient air" (see Douglas M. Costle's December 19, 1980, letter to Senator Jennings Randolph). However, Wyoming did not explicitly state that the subject requirements will be part of all State permits for surface coal mining operations in the PRB. The State must include these requirements in all permits in order to assure federal enforceability and protection of the public.

In a March 2, 1989, letter, EPA determined that the State must commit to accomplishing the following in order for EPA to propose to approve the subject SIP revision:

(1) Wyoming must model again using an EPA approved guideline model to verify compliance with the PSD Class II TSP increments, PM-10 NAAQS, and TSP WAAQS (since the State's adopted PM-10 Standards had not yet been approved by EPA as part of the State's SIP) for the 30-year "life of the mine" period. Ambient air dispersion modeling is the only method to predict future impacts on ambient air quality. EPA's authority for requiring such demonstrations of compliance is found in 40 CFR 51.166(a)(2) and 40 CFR 51.105. EPA's regulations for PSD require that a SIP revision must include a demonstration that it will not cause or contribute to a violation of the applicable increments (40 CFR 51.166(a)(2)). EPA's regulations for SIP approval state that EPA will approve a SIP revision if EPA determines that the revision meets the requirements of the Clean Air Act (Act). One purpose of the Act is to protect and enhance the quality of air resources (see Section 101(b)(1) of the Act, 42 U.S.C. 7401(b)(1)), for which the Act provides national ambient air quality standards to protect the public's health and welfare (see Section 109 of the Act, 42 U.S.C. 7409). Thus, a SIP

revision must protect the NAAQS (40 CFR 51.105).

(2) Wyoming must compile an analysis of PSD increment consumption in the PRB to date. Wyoming must submit the modeling methodology to EPA for approval before performing this increment analysis.

(3) Wyoming must include in all permits (both existing and future) explicit language specifying the measures for prevention of public access identified in the December 22, 1988, submittal.

(4) Wyoming must include in all permits (both existing and future) explicit language identifying the terms and conditions of each permit, including a description of the mine plan, dust control measures equivalent to best available work practices, and any other air pollution control activities. Alternatively, EPA suggested that if the State did not wish to specifically list those terms and conditions, the following language may be added to each permit: "All commitments and descriptions set forth in the application for this permit, unless superseded by a specific condition of this permit, are incorporated herein by this reference and are enforceable as conditions of this permit."

(5) It is EPA's interpretation that the second sentence in the subject revision applies solely to surface coal mines (*i.e.*, Section 3 Particulates (d)) " * * * For surface mining operations, the application of this definition will be limited to only those lands that are necessary to conduct mining operations as determined by the Administrator of the Wyoming Air Quality Division"). EPA requested that the State confirm that this sentence of the subject revision can be applied only to surface coal mines and no other industry, including surface mining operations for other minerals.

EPA had stated that the State must commit, by March 15, 1989, to accomplishing these items by mid May 1989.

C. The March 14, 1989, Submittal

On March 14, 1989, Wyoming submitted a commitment to accomplish the items contained in EPA's March 2, 1989, letter by mid May 1989. EPA responded on March 17, 1989, that, based on the State's March 14th commitment, EPA would proceed with a proposal to approve the "ambient air" SIP revision. Once the above commitments were accomplished, attainment of all applicable standards was demonstrated, and all comments received during the proposed

rulemaking comment period was addressed, EPA would then proceed with final action on the SIP submittal.

EPA also stated that Wyoming must perform an increment analysis for all future permits issued to PRB surface coal mines. Wyoming took issue with the increment analysis requirement, stating that neither the WAQSR nor the federal PSD regulations require an analysis of increment consumption when permitting non-PSD sources. EPA took the position that, with each new permit issued in the PRB, the possibility for exceedances of the PSD particulate increments becomes more likely. On April 13, 1989, Wyoming's Assistant Attorney General responded in a letter to EPA, indicating that the State will review the ambient air quality in Wyoming's attainment areas at least every five years and, if necessary, implement a corrective program if an area is in noncompliance with ambient air quality standards or allowable increment. EPA is satisfied with this alternative.

4. Ambient Air Dispersion Modeling Requirements and the Adequacy of EPA's Modeling Tools

With submittal of modeling information in the September 6, 1988, SIP submittal, it became apparent to EPA that Wyoming was not utilizing EPA-approved modeling tools to determine the air quality impacts from surface coal mining activities. As discussed previously, Wyoming had been using the CDMW model to determine the impacts of emissions (mostly fugitive emissions) from surface coal mining activities in Wyoming. CDMW was used to determine compliance with the annual TSP WAAQS and NAAQS only; the State did not model for the 24-hour particulate standards, claiming that an appropriate method of modeling for the 24-hour standards was not available.

This issue was discussed with the State during the FY89 SEA Midyear review, held in Cheyenne, Wyoming on February 14, 1989. EPA pointed out that the appropriate emission factors for this application were available and could be found in EPA's "Compilation of Air Pollution Emission Factors" (commonly referred to as "AP-42"), and that the appropriate dispersion model for determining both the 24-hour and annual impacts was the Industrial Source Complex (ISC) model. EPA reaffirmed this position in the March 2, 1989, letter to Wyoming which required that dispersion modeling be conducted utilizing an approved EPA guideline model.

On April 12, 1989, EPA notified the State that Wyoming must perform 24-hour modeling and utilize an EPA-approved model for future surface coal mining permitting actions or potentially face a withholding of grant funds. A meeting was held on April 27, 1989, to discuss this issue and all PRB modeling activities.

The results of this meeting, as summarized in a May 9, 1989 letter from Wyoming to EPA, are as follows:

(1) Wyoming must conduct a short-term modeling study for the TSP NAAQS, TSP PSD increments, and PM-10 NAAQS utilizing EPA-approved modeling tools to determine the ambient air impacts of surface coal mining operations over the next three-year period. This satisfied Wyoming's concerns since the coal companies would not all be at full production during this period and there would be less of a chance of a modeled exceedance using tools which the State and the coal companies claim overpredict—especially for the 24-hour period. EPA was satisfied since Wyoming would determine the impacts of mining activities utilizing EPA-approved methods and it could be demonstrated that the applicable ambient standards were being protected. If the modeling demonstrated attainment, EPA could begin taking action on the "ambient air" SIP submittal.

(2) Wyoming could proceed with issuing permits to coal companies without performing 24-hour modeling for each. The results of the modeling studies would determine the impacts of mining operations on ambient air quality, and the permits could be reconsidered and reissued if corrective measures were necessary to address any modeled exceedances.

(3) Recognizing the concerns of the State and coal companies regarding the adequacy of EPA's approved modeling tools (models and emission factors), there would be an opportunity for the State, the coal companies, and EPA to develop modeling tools which could more accurately predict the impacts from surface mining operations in the PRB.

(4) There would also be an opportunity for the State to revise its PSD regulations and the Section 107 designated area boundaries (referred to as the air quality control region or "AQCR" in the letter) in Wyoming to eliminate the requirement to calculate PSD increment consumption in the PRB. Wyoming would solicit EPA guidance and support for this process.

(5) Within three years, Wyoming would conduct a 30-year "life of the mine" study for the applicable ambient air quality standards in the PRB utilizing EPA-approved models and emission factors. If attainment were demonstrated, final action would be taken on the SIP.

EPA followed up with a July 25, 1989, letter to Wyoming which reiterated the above elements and provided additional detail, as follows:

(1) If the three-year modeling study indicated exceedances, corrective action (i.e., more stringent control measures or limits on production) would be necessary.

(2) Wyoming was to perform a preliminary life of the mine modeling study and assume that favorable conditions existed, such as an approved PM-10 SIP to eliminate TSP from consideration and a redesignation of the State's Section 107 areas to eliminate the requirement for a PRB PSD increment analysis. If attainment was demonstrated, this preliminary analysis would provide added support to EPA's proposed approval of the ambient air SIP action.

(3) The 30-year demonstration could differ from the three-year study in several ways. First, the State's PM-10 SIP would likely be approved, thus eliminating the need to model for the TSP NAAQS. Second, new models and emission factors could be approved and utilized. Third, the Clean Air Act could be amended which may change the modeling requirements for surface coal mines. Finally, the State could improve the best available work practices applicable to surface coal mines in order to reduce emissions from mining activities.

(4) The mid May due-date for modeling activities was revised as follows: (1) the State must commit to carry-out the above described work by August 7, 1989, and also provide to EPA a workplan for this work over the next two to four months.

Wyoming submitted such a commitment to EPA on August 8, 1989.

In a September 5, 1989, letter, the Wyoming Mining Association (WMA) expressed dissatisfaction with EPA's requirement to utilize the ISC model and AP-42 emission factors in the three-year modeling study. The WMA also expressed support for Wyoming's use of CDMW and State emission factors, claiming they were more appropriate for use in the PRB than EPA's. Other areas of concern stated by the WMA and with which the State agreed are as follows:

(1) The State's regulatory activities, including past modeling exercises, have

ensured excellent air quality in the PRB while the mining industry has produced large volumes of coal.

(2) EPA is withholding approval of the "ambient air" SIP revision pending completion of the modeling exercise that Wyoming disagrees with, even though Wyoming's adopted definition of ambient air is consistent with EPA's.

(3) EPA is requiring Wyoming to model for TSP, which no longer exists at the State and federal level, adding additional costs to the project.

(4) There is no accurate model available for predicting compliance with the 24-hour particulate standards at surface coal mines.

(5) If inappropriate modeling resulted in restricted production levels, potential expansion could be limited and opportunities missed to provide low sulfur coal to reduce acid deposition (as required in proposed amendments to the Act).

EPA responded to item (2) above in a September 12, 1989, letter to Wyoming, stating that the adoption of a regulation which is as stringent as the federal requirements in no way implies automatic SIP approval. Wyoming had verbally asserted that the *Alabama Power Co. v. Costle* opinion so implied, which EPA refutes. EPA also cited federal regulations which provides EPA the authority to require demonstrations of compliance with the PSD increments and NAAQS, found in 40 CFR 51.166(a)(2) and 40 CFR 51.105, respectively. EPA's regulations for PSD require that a SIP revision must include a demonstration that it will not cause or contribute to a violation of the applicable increments. EPA's regulations for SIP approval states that EPA will approve a SIP revision if EPA determines that the revision meets the requirements of the Act, which includes protection of the increments and NAAQS.

On October 11, 1989, EPA met with the State and representatives from Peabody Holding Company (Peabody) to discuss the WMA's concerns listed above. Peabody reiterated the position that the ISC model and EPA's emission factors do not adequately predict the ambient air impacts from Wyoming's surface coal mines, and, in fact, overpredicted by a factor of four to five times. Peabody proceeded to request that EPA make a determination that the available modeling tools are not adequate and an exemption be granted to Wyoming delaying the modeling requirements until adequate modeling tools exist. Wyoming argued that the requirement to model for the TSP NAAQS was unnecessary since the State had adopted the federal PM-10

standards and EPA was preparing to grant SIP approval to the State's PM-10 program. The State of Wyoming concurred with Peabody's position and proposed that the three-year modeling study requirement be eliminated since there was no "on the ground" problem, as demonstrated by existing ambient air monitoring. EPA agreed to drop the requirement to model for the TSP NAAQS and committed to consider the request to eliminate the three-year modeling requirement if it could be demonstrated, through monitoring, that the PM-10 NAAQS were being protected. In the interim, however, EPA required the State to continue its modeling efforts and submit a modeling protocol by December 1, 1989, and submit the three-year and preliminary 30-year modeling results by May 1, 1990. If these dates were not adhered to, EPA would return the "ambient air" SIP revision to the State and issue a SIP Call, which would require an evaluation of the PRB with respect to the applicable ambient air standards.

On October 27, 1989 (52 FR 48827), EPA proposed to approve the Wyoming PM-10 program, which includes the federal 24-hour and annual ambient standards, as part of the SIP. On July 10, 1990 (55 FR 28197), EPA issued final approval of Wyoming's PM-10 SIP.

EPA reaffirmed its position regarding the necessity to perform the modeling studies (as described in the July 25, 1989, letter) in a November 9, 1989, letter to Wyoming. EPA emphasized that timely completion of each step of the study was necessary so that action could be taken on the SIP submittal, which would result in permits issued to the PRB coal companies becoming consistent with the federally approved SIP.

EPA, the State, and the WMA met on November 21, 1989, to discuss the necessity of the three-year and the preliminary life of the mine modeling studies. The WMA and the State again took issue the EPA's insistence on utilizing EPA guideline modeling tools for these studies, the results of which could require limitations on coal mining activities. Wyoming discussed the actual "on the ground" air quality in the PRB, stating that air quality in the Gillette, Wyoming area (which is located in the center of the PRB) is in attainment of the PM-10 NAAQS and has actually improved during the past 10 years, even with increased mining production. Both parties again implored EPA to reconsider these modeling requirements.

5. Demonstrating Short-term Attainment of the PM-10 Standards Utilizing Monitoring

In a December 15, 1989, letter to Wyoming, EPA concluded that, because of the special circumstances described above, processing the "ambient air" SIP revision could proceed without a formal modeling demonstration. While EPA did not share the State's and coal companies' belief that ISC overpredicted the impacts of emissions from the PRB's surface coal mining operations, EPA acknowledged that the differences of opinion on the suitability and performance of the ISC model utilizing the EPA-approved emission factors were great enough to warrant a revision to the PRB attainment demonstration.

For such a change to occur, the State had to assure that the short- and long-term PM-10 NAAQS were being protected. Such assurance could be based on monitoring utilizing quality-assured ambient data for the most recent 12-month period (preferably calendar year 1989) from monitors which represent ambient air in the PRB. If it is determined that the PM-10 NAAQS are, in fact, being protected, EPA would have a sound environmental basis for proposing to approve the SIP revision, subject to conditions described below. EPA believes that these conditions will ensure ongoing protection of the PM-10 NAAQS.

The first condition would require Wyoming to commit, over a three-year period, to expeditiously develop an appropriate model and emission factors for western surface coal mines, in accordance with EPA-approved guidelines. The second condition would require that, for the interim period, the mining companies conduct extensive monitoring in the PRB and employ best available work practices to ensure that the PM-10 NAAQS are being protected. Such monitoring must be established in a manner consistent with current quality assurance guidance and the networks must be approved by EPA. Such monitoring networks must be established around the boundaries of each mine (even when contiguous with other mines) to ensure that the PM-10 concentrations in ambient air surrounding each mine are adequately assessed. If an exceedance of the PM-10 NAAQS occurs during monitoring, the mining companies must immediately institute remedial action necessary to prevent further exceedances. The third condition would require that once modeling tools are developed and approved by EPA, Wyoming must conduct the 30-year modeling study as described above. If necessary, Wyoming

must use the results of this study to develop whatever control strategies may be necessary to protect the appropriate short- and long-term ambient air quality standards.

EPA requested that if the State chose to implement the above-described process, the following must be submitted to EPA by January 15, 1990:

(1) A schedule to provide to EPA all available quality assured ambient monitoring data in the Basin for calendar year 1989; if the data show no PM-10 NAAQS violations, and after the data have been properly quality assured, EPA will proceed with a proposed approval of the "ambient air" SIP action. If the data show violations that are caused by one or more mines, legally binding remedial action must be initiated by the State to eliminate these violations before EPA can take action on the SIP;

(2) A schedule to expeditiously determine the appropriate model and emission factors for surface coal mines in the PRB—this could entail comparing ISC to other available models or developing a new model and demonstrating its appropriateness in place of ISC using the "Interim Procedures for Evaluating Air Quality Models (Revised)"; (EPA-450/4-84-023);

(3) A monitoring network description and a schedule to develop and implement such a monitoring network to adequately assess the PM-10 ambient air quality around each mine;

(4) A commitment by the State to initiate expeditious remedial action if an exceedance of the PM-10 NAAQS is detected by the monitoring network;

(5) A commitment and schedule to perform the 30-year modeling study utilizing the modeling tools as determined in item 2 above;

(6) A commitment by the State to initiate expeditious remedial action if the modeling outlined in item 5 above shows exceedances of the applicable ambient air quality standards and, if appropriate, the PSD increment; and

(7) A schedule for other State efforts (i.e., a Section 107 redesignation, changes to the State regulations defining "baseline area" and "baseline date", etc.).

In conclusion, EPA stated that if the above proposal was not acceptable and an agreeable solution could not be reached, EPA would then require that the measures previously identified in the July 25, 1989 and November 9, 1989 letters be carried out.

On January 11, 1990, the State responded with a commitment to accomplish item 1 by April 1, 1990, and to develop a schedule to do work in

support of items 2, 3, and 5 before April 1, 1990. The State also indicated that the EPC had scheduled a public hearing to consider the revisions identified in item 7.

Regarding the topic of establishing an extensive monitoring network for the three-year monitoring period, Wyoming had stated that this was not practical or necessary due to the vast area of the coal mining areas and the minimum severity of the problem. First, Wyoming stated that establishing such a network would be extremely expensive because it required getting power over vast areas to new samplers. Second, if monitors were placed between contiguous mining areas and exceedances were recorded, it would not be possible to determine which mine's emissions were causing the exceedances. Only modeling can determine source contribution, while the purpose of the monitoring proposal was to provide an alternative to the EPA-required modeling that the State had questioned.

On March 20, 1990, EPA responded to the State and retracted the statement, "Such monitoring networks must be established around the boundaries of each mine (even when contiguous with other mines) * * *," in favor of the position that monitors need be located only at the first and second maximum concentration sites for each active area of each mine, as determined by modeling, during each of the three years. EPA also agreed that it was not necessary for the State to make an additional commitment to initiate expeditious remedial action in the event that the monitoring network or the 30-year modeling study detect an exceedance. Such action is already a part of the State's enforcement role as outlined in permits issued to the mines, as mandated by regulation, and as committed to in the State's modeling protocol. Finally, EPA defined the milestone for performing the 30-year modeling study as April 1, 1993.

6. Wyoming's March 1990 SIP Submittals

On March 28 and March 29, 1990, Wyoming submitted information which would satisfy all outstanding requirements for information. Included in this submittal were the following:

(1) Ambient air monitoring data for calendar year 1989, the State's analysis of the data, a description of the existing company-operated monitoring network, and the quality assurance documentation for each coal company's network of samplers.

(2) A schedule and description of work to initiate the development of modeling tools for fugitive dust

emissions from PRB surface coal mines—Wyoming has already begun the process of validating various EPA models and State and EPA emission factors;

(3) A description of work and a schedule to develop and implement an approvable monitoring network for the PRB—a final monitoring protocol and network description will be submitted to EPA in January 1991;

(4) A commitment to initiate remedial action if an exceedance of the PM-10 NAAQS is monitored;

(5) A commitment to perform the 30-year life of the mine modeling study by April 1, 1993;

(6) A commitment to initiate remedial action if an exceedance of the PM-10 NAAQS or PSD increments (if applicable) is indicated by the 30-year modeling study; and

(7) An update on activities to revise the State's Section 107 designated area boundaries (to create a separate area for the PRB) and to revise the State's PSD regulations, to eliminate the need to determine PSD increment consumption in the PRB.

Wyoming also expressed concern regarding EPA's requirement to establish a maximum concentration network, based on modeling, in the PRB for each of the next three years. In a July 12, 1990, response to the March 28th and 29th submittals, EPA expressed satisfaction with all submitted information and commitments, but indicated that there was a need to resolve the issue of siting samplers for future monitoring efforts.

EPA and the State met on July 24, 1990, to discuss this issue. Wyoming indicated that this would not be practical or achievable since there was no existing modeling available for the three years in question, and the State did not have the resources to perform

new modeling to determine first and second maximum concentration sites for each mine. Wyoming indicated a preference for determining maximum concentration sites utilizing best engineering practices. This would entail examining wind roses for predominant wind speed and direction, examining the proximity of each actively worked area with site boundaries, and then locating monitors in the area of estimated highest impact. Wyoming had been siting monitors in the PRB for the last ten years using this method, and expressed confidence that the existing network provided adequate coverage throughout the PRB. However, Wyoming did agree to re-examine the network to determine if it could be improved. EPA, satisfied that the State was committed to protect the PM-10 NAAQS, approved this method for siting monitors. The State committed to provide EPA with this methodology when submitting the revised network for EPA approval.

In a memorandum dated August 15, 1990, EPA determined that the PRB ambient air monitoring data for calendar year 1989 demonstrated past attainment of the PM-10 NAAQS, with some reservations. Those concerns regard the quality assurance procedures utilized by the coal companies. EPA informed the State of these deficiencies on October 9, 1990, and requires that they be corrected for future monitoring efforts.

7. Impacts of the Clean Air Act Amendments of 1990

On November 15, 1990, President Bush signed into law the Clean Air Act Amendments of 1990. Section 234 "Fugitive Dust" of Title II of the Amendments contains the following provisions:

" * * * the Administrator shall analyze the accuracy of the ISC model and AP-42 emission factors and make revisions as may

be necessary to eliminate any significant over-prediction of air quality effect of fugitive particulate emissions from [surface coal mines]. Such revisions shall be completed not later than three years after the date of enactment * * *

Thus, Wyoming's commitment to initiate the development of modeling tools for fugitive dust emissions from PRB surface coal mines is no longer applicable. This responsibility is now EPA's.

The schedule for performing the 30-year model study by May 1993 (as described above) is also impacted by the Amendments. Because EPA is required to analyze and revise (if necessary) the modeling tools within three years of the date of enactment, or November 15, 1993, the schedule for performing and submitting the 30-year study is revised such that Wyoming must submit the modeling protocol and schedule for completion of the study following discussions of the guidance EPA develops regarding the appropriate modeling tools for surface coal mining operations.

C. EPA Action

With the receipt of the March 28 and 29, submittals and the information and commitments contained with them, and the determination that the 1989 monitoring data demonstrate attainment of the PM-10 NAAQS, the "ambient air" SIP submittal was determined to be administratively and technically complete on September 4, 1990. EPA is satisfied the applicable ambient air quality standards have been and will continue to be protected in the PRB.

EPA is proposing to approve, with conditions, the "ambient air" SIP revision. These conditions and the associated milestones are summarized as follows:

Activity	Responsible agency	Milestone
Operate existing monitoring network in the Powder River Basin (PRB).....	State.....	Ongoing.
Initiate remedial action if monitoring indicates exceedances of the PM-10 NAAQS	State.....	Ongoing.
Replace each TSP sampler that detects an exceedance with a PM-10 Sampler	State.....	Ongoing.
Initiate action if State submits to EPA a request to approve a PRB section 107 redesignation and revisions to the State's PSD "Baseline Definitions".	EPA	Ongoing.
Develop PRB maximum concentration ambient monitoring network and implementation schedule and submit to EPA for approval.	State.....	Spring '92.
Operate PRB maximum concentration monitoring network	State.....	Fall 1992.
Initiate final ambient air SIP action (in response to this proposed SIP action)	EPA	After monitoring network operational and comments on proposed rulemaking compiled.
Provide to EPA scope of work and schedule for completion of the PRB 30-year modeling study.....	State.....	Following issuance of EPA guidance.
Provide to the State comments on the scope of work and schedule for the 30-year modeling study.....	EPA	1 month after receipt.
Perform 30-year modeling study and submit results to EPA	State.....	Following EPA's approval of the modeling scope of work and schedule.

Activity	Responsible agency	Milestone
Initiate remedial action if modeling indicates exceedances of the applicable PM-10 standards	State	Ongoing.
Review 30-year modeling study results, determine attainment, and initiate final ambient air SIP action	EPA	45 days after receipt of results.

If these milestones cannot be attained, Wyoming must provide adequate justification and new milestones will be negotiated.

At the conclusion of the public comment period for this proposed rulemaking, EPA will consider all comments submitted and evaluate the progress made in attaining the above milestones. Unless EPA receives comments that demonstrate the inappropriateness of this approach, EPA will publish an approval, with conditions, in the *Federal Register*. If the State fails to achieve the conditions listed above, EPA will consider a SIP Call or other regulatory process to ensure attainment in the PRB.

Proposed Action

In this action, EPA is proposing to approve, with conditions, a revision to Section 3 Particulates of the WAQSR mining operations in the PRB. EPA's proposed approval of the SIP revision is based on the following criteria. First, Wyoming has demonstrated through ambient air monitoring that the PM-10 NAAQS in the PRB have been protected in the past. Second, Wyoming is to improve the PRB particulate monitoring network and continue to monitor in order to ensure that the PM-10 NAAQS will be protected. Third, Wyoming must initiate remedial action if monitoring indicates an exceedance of the PM-10 NAAQS. Fourth, Wyoming is to perform a 30-year modeling study after issuance of EPA procedures and discussions on such procedures in order to demonstrate attainment of the PM-10 NAAQS or, if applicable, PSD particulate increments, over the permitted life of the surface coal mines in the PRB. Fifth, Wyoming must initiate remedial action if this modeling effort indicates exceedances of the applicable standards.

Additional information and detail on State submittals, EPA analysis of submitted information, and the correspondence referred to above can be found in the technical support document.

The Agency has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms

with those requirements irrespective of the fact that the submittal preceded the date of enactment. Approval of this specific revision to the SIP does not indicate EPA approval of the SIP in its entirety.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to any state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relations to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Interested parties are invited to comment on all aspects of this proposed action.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter.

Authority: 42 U.S.C. 7401-7642.

Dated: January 28, 1991.

Jack McGraw,
Acting Regional Administrator.

Editorial Note: This document was received at the Office of the Federal Register on August 21, 1992.

[FR Doc. 92-20458 Filed 8-25-92; 8:45 am]

BILLING CODE 6560-50-M

40 CFR PART 52

[IL12-18-5554; FRL-Y195-7]

Reconsideration of Certain Federal RACT Rules for Illinois

AGENCY: United States Environmental Protection Agency.

ACTION: Proposed stay.

SUMMARY: In the Rules section of today's *Federal Register*, USEPA is announcing a 3-month stay based on USEPA's decision to reconsider certain Federal rules requiring Reasonably

Available Control Technology (RACT) to control volatile organic compound (VOC) emissions in the Illinois portion of the Chicago ozone nonattainment area (55 FR 26814, June 29, 1990). That action stays the effectiveness of the emission limitations and standards for metal furniture painting operations only as they apply to Allsteel Incorporated (55 FR at 26868-874, codified at 42 CFR 52.741(e)). USEPA is issuing that stay pursuant to Clean Air Act (CAA) section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), which provides the Administrator with authority to stay the effectiveness of a rule for up to 3 months during reconsideration.

This action proposes, pursuant to CAA sections 110(c), 301(a)(1) and 307(d)(1)(B), 42 U.S.C. 7410(c), 7601(a)(1) and 7607(d)(1)(B), to temporarily stay the effectiveness of this rule as it applies to Allsteel's metal furniture painting operation, beyond the three months expressly provided in section 307(d)(7)(B), but only if and as long as necessary to complete reconsideration (including any appropriate regulatory action) of the rule in question. Pursuant to the rulemaking procedures set forth in CAA section 307(d), 42 U.S.C. § 7607(d), USEPA hereby requests public comment on this proposed temporary extension of the three-month stay.

DATES: Comments on this proposal must be received by [September 25, 1992] at the address below. A public hearing, if requested, will be held in Chicago, Illinois. Requests for a hearing should be submitted to J. Elmer Bortzer by September 25, 1992 at the address below.

ADDRESS: Written comments on this proposed action should be addressed to J. Elmer Bortzer, Chief, Regulation Development Section (AR-18), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604. Comments should be strictly limited to the subject matter of this proposal, the scope of which is discussed in supplementary information. Interested persons may call Hattie Geisler at (312) 886-3199 to see if a hearing will be held and the date and location of any hearing. Any hearing will be strictly limited to the subject matter of this proposal, the scope of which is discussed in supplementary information.